

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
NOVEMBER 28, 2007**

CALL TO ORDER	<p>A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Barry Conger, Michael Mower, Kathy Robertson, Kim Fleming, Don Hines, Randy Toavs, and Gene Dziza. Gordon Cross and Frank DeKort had an excused absence. BJ Grieve and Annie Thompson represented the Flathead County Planning & Zoning Office.</p> <p>There were approximately 11 people in the audience.</p>
APPROVAL OF MINUTES	<p>No minutes were approved at this meeting.</p>
PUBLIC REVIEW	<p>Dziza reviewed the public hearing process.</p>
PUBLIC COMMENT <i>(not related to agenda items)</i>	<p>None.</p>
HELENA FLATS NEIGHBORHOOD PLAN	<p>A request by Flathead County to append the Helena Flats Neighborhood Plan to the Flathead County Growth Policy. The Neighborhood Plan is found to be in general compliance with the Flathead County Growth Policy and Montana state law. No revisions are proposed to the Neighborhood Plan at this time.</p>
STAFF REPORT	<p>Annie Thompson reviewed a staff report for the Board.</p>
BOARD QUESTIONS	<p>Mower asked if there is a way to bring the Plan into full compliance since there are some slight inconsistencies.</p> <p>Thompson said the Board could have a workshop on the plan and it would have to go through the review process as outlined in the Growth Policy.</p>
AGENCIES	<p>None present.</p>
PUBLIC COMMENT	<p>Shirley Anderson, 1475 Helena Flats Road, talked about the committee's experience with the Helena Flats Plan. There has been a 24% increase in homeowners in the area since the Plan was first filed in July of 2004. She said developers ask them about what's going on in the area. She said the plan is a good guideline.</p>
STAFF REBUTTAL	<p>None.</p>

**FINDINGS OF
FACT MOTION**

Cross made a motion seconded by Robertson to adopt the Helena Flats Plan neighborhood update as findings-of-fact.

**FINDINGS OF
FACT ROLL CALL**

On a roll call vote the motion passed unanimously.

**MOTION TO
APPEND**

Robertson made a motion seconded by Fleming to append the Helena Flats neighborhood plan to the Flathead County Growth Policy.

**BOARD
DISCUSSION**

Toavs asked if there was any notice given to people within the plan area that the meeting was tonight.

Thompson said it was noticed in the Helena Flats land use advisory agenda and legal noticed in the Daily Inter Lake.

Shirley said it was published as a topic in their agenda.

**ROLL CALL
TO APPEND**

On a roll call vote the motion passed unanimously.

**TOURIS/SNEED
ZONE CHANGE
(FZC 07-09)**

A Zone change request in the Bigfork Zoning District by Mike Touris and Chuck Sneed, from SAG-5 (Suburban Agricultural), to I-1 (Light Industrial). The property is located off of MT Highway 83 and contains approximately 7 acres.

STAFF REPORT

BJ Grieve presented staff report FZC 07-09 to the Board.

**BOARD
QUESTIONS**

Dziza asked about industrial use in the area.

Grieve pointed it out on the map.

Conger asked if Staff agreed with the Bigfork Land Use Advisory Committee's (*BLUAC*) recommendation for denial due to spot zoning.

Grieve said he gave the Board definitions of spot zoning because it's tricky legal terminology.

Cross asked about further subdivision of the lot.

Grieve said 7500 square feet is the minimum lot size in an I-1 zone. Technically, 31 lots could fit on the subject parcel if divided.

APPLICANT

Erica Wirtala, of Sands Surveying, exhibited a PowerPoint presentation for the Board.

Mike Touris (*applicant*), 2006 Broken Leg Road in Bigfork, said he bought this property about 2 years ago with the understanding that Bigfork was working on a new master plan that would better accommodate the proposed use. He would like to use it for his

plumbing business. They employ 10-15 people, have been running out of Bigfork for about 15 years, and thinks what they're proposing will be a further asset to the community.

Cross asked if he spoke with anyone who was working on the Bigfork plan at the time he bought the property and what assurances he may have had.

Touris said there weren't any assurances. He spoke with the previous owner, realtors, and one person from BLUAC.

Cross asked if he investigated buying property in an existing industrial zone.

Touris said no.

AGENCIES

None.

**PUBLIC
COMMENT**

Craig Wagner, 1365 LaBrant Rd, is chairman of Bigfork Steering Committee. He talked about the map for the Bigfork area and why it was delayed.

Sue Hanson, secretary of BLUAC, said they voted unanimously to deny this proposal. She said both of the adjacent properties are non-conforming uses. She said there has been considerable expansion on the corner of Highway 83, Highway 35, and Highway 82 as well. She said one of the large concerns, in changing this property to industrial, is because of the park adjacent to the property. She said the proposed use of the applicant doesn't seem harmful, however once the property is changed to I-1 something dangerous could go on that property.

Pat Wagner, 1365 LaBrant Rd, talked about all the empty office space in Bigfork and said there's plenty of space to rent for a family business.

**STAFF
REBUTTAL**

Grieve said Wirtala expressed some good points. He said the Bigfork area has worked very hard on their plan. He said it is at the fault of staff that the plan isn't currently done. He said Wirtala discussed the draft plan and reminded the Board that staff and the Board can only go on existing documents when making a decision. You don't go into a plan looking at what's on the ground; you need to accommodate things and look where the infrastructure is. He discussed land uses in the Bigfork area and non-conforming uses.

**APPLICANT
REBUTTAL**

Wirtala said the people who spoke in opposition are not adjacent property owners; they are people who have worked hard on the Bigfork plan. She said adjacent owners were notified and there was no comment. She talked about non-conforming uses. She spoke briefly about Mild Fence Company as an example of expanding non-

conforming use. She said as a business person, you would want to have a zone that is black & white so you know what you can do and not have to worry.

MOTION
FINDINGS-OF-FACT

Robertson made a motion seconded by Kim to adopt staff report FZC 07-09 as findings-of-fact, otherwise referred to as statutory criteria.

BOARD
DISCUSSION

Dziza disagreed with some of the points in the findings-of-fact. He doesn't think this would have any major effect on adjacent property. He thinks this is a better place for this type of use, rather than at the flashing light where the school is. He thinks the property is better suited for light industrial as opposed to residential.

Robertson thinks there's a certain amount of danger with the fact they're open on Saturday when there are children at the adjacent park. She talked about adjacent owners and said there really aren't that many that could have responded.

Conger said Dziza made good points however; he disagreed with all of them. He thinks it is an inappropriate use of this property. He said just because there are existing non-conforming uses doesn't mean everyone around it gets to do things too.

Mower disagreed with Dziza as well. He thinks staff did a good job of evaluating this. He said you need to look at what it could look like future if it were to be zoned industrial. He said the intent of maintaining the rural character is important. He doesn't see any real logic in granting this zone change.

Robertson commented on the reference to landscaping in the PowerPoint presentation. She said if you look at the picture there's no landscaping; it's a mess.

Cross asked Wirtala why she chose I-1 instead of I-1H.

Wirtala said they talked about it but selected I-1 because there would have been setback problems with I-1H. She said they tried to match the zoning up with the use as best they could to make sure everything would comply. She talked about the 12 criteria that were used and said the subdivision regulations would not allow any individual lot to front Highway 83.

Grieve said you wouldn't have to necessarily go through subdivision; an exemption could be used by the applicant.

ROLL CALL
FINDINGS-OF-FACT

On a roll call vote the motion passed 5-2 with Dziza and Toavs dissenting.

**MOTION
TO DENY**

Robertson made a motion seconded by Conger to adopt Staff Report FZC-07-09 and recommend denial to the Board of County Commissioners.

**BOARD
DISCUSSION**

Cross said a zone change may not be the best option and said the BOA could hear a request for a non-conforming use and/or variance for not living on the property. He said that could be regulated better than changing to I-1 zoning.

**ROLL CALL
TO DENY**

On a roll call vote the motion passed 5-2 with Dziza and Toavs dissenting.

OLD BUSINESS

Grieve handed some things out to the Board for tomorrow's meeting regarding fire issues. He asked the Board if they need copies of updated Subdivision Regulation provision.

Fleming wanted to know the changes that were voted on last time.

He handed out a copy of the Resolution of the Riverdale Plan for the Board to sign. He said the Board will get an updated copy of the plan before it goes to the Commissioners. He told the Board the North Shore Ranch project was pulled from tonight's agenda because Staff would not meet with them to negotiate conditions prior to the public hearing. He said they will be contacting the Planning office to reschedule and said everything will be fully re-noticed.

Cross asked about the timeline on North Shore Ranch.

Grieve said the timeline has been stopped.

Fleming said the applicant, for North Shore Ranch, has been conversing with DEQ. She found something from the applicant stating they wished the email from DEQ wouldn't be part of the public record.

Grieve said any correspondence to the Planning office will be a part of the file and will be passed on to the Planning Board.

Conger asked about procedure for signing the resolution for Riverdale.

Grieve said only the people who were at the meeting should sign the resolution.

NEW BUSINESS

Dziza said someone asked for 30 minutes of the Board's time to talk about property rights.

Grieve said staff just had a colloquium with Jim Sappington about property rights.

Mower said if someone is going to talk about legal issues, they should be an attorney or professional and not just someone who has a vested interest.

Fleming said if you open the door to that it could open the door to a lot of things.

Hagemeier asked the Board if they would want to come to staff colloquiums.

The Board expressed interest in attending colloquiums.

Dziza commented on the December 12, 2007 agenda and mentioned doing a consent agenda.

Cross thought zoning text amendments had to have a public hearing and couldn't be done on a consent agenda.

Fleming said lakeshore variance requests are something that used to be heard on a consent agenda. She said things can be placed on a consent agenda but if anyone wanted to speak on it, it would be pulled from the consent agenda and placed on the regular agenda.

The Board continued to discuss consent agendas.

Toavs asked about future processes for neighborhood plans.

Hagemeier talked about working on the revision for the North Fork plan. He said there's been a lot of public comment and workshops.

Toavs said he would like to have a planning board workshop on a neighborhood plan before it comes to a public hearing.

ADJOURNMENT

The meeting was adjourned at 8:37 p.m. on a motion by Robertson. The next meeting will be held at 6:00 p.m. on December 12, 2007.

Gene Dziza, President

Jill Goodnough, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 1/9/08